

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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KEITH ROBERTS,

Petitioner,

v.

Case No. 07-C-171

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

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On February 20, 2007, Keith Roberts, through counsel, filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. I must give the case initial consideration pursuant to Rule 4 of the Rules Governing § 2255 Cases, which directs the court to consider the petition on its face before the United States attorney is notified. Rule 4, Rules Governing Section 2255 Proceedings.

Implicit in Rule 4, as well as § 2255 itself, is that the motion to vacate must set forth some basis for relief that the court can evaluate. Rule 2 makes these requirements specific: “The motion must: (1) specify all the grounds for relief available to the moving party; (2) state the facts supporting each ground; . . .” Rule 2, Rules Governing Section 2255 Proceedings. Roberts’ motion does not do this. Instead, it merely asserts that Roberts’ conviction violated the law “on a variety of levels.” (Motion to Vacate at 1.) The motion also suggests that additional argument may be forthcoming once the transcript of the trial is reviewed, although given that the case is on direct appeal it is unclear what additional argument would underlie this motion.

Because the court cannot evaluate the petition in its present form, and because it would make little sense to order the United States to "answer" the petition at this point, the petitioner is hereby notified that the case will be dismissed for failure to prosecute unless an amended motion, complying with Rule 2, is filed on or before June 1, 2007. The motion need not be in the form of a brief, but it must at least set forth the facts and identify the basis for the claim that Roberts' conviction and sentence violate the law or the Constitution.

**SO ORDERED** this 30th day of April, 2007.

s/ William C. Griesbach

William C. Griesbach

United States District Judge